

**Remarks:**

Your applicant has amended claims 15, 19, 22, 23, and 25, and believes claims 15 through 26 are now in condition for allowance for the following reasons.

**35 USC 112 Indefiniteness**

The examiner rejected claim 15 in part as being indefinite under 35 USC 112 because “said side flaps” had no antecedent basis. Applicant has amended claim 14 to replace “a plurality of side panels” with “a plurality of side flaps.” This amendment should cure the indefiniteness problem. Claim 19 was amended in the same manner for consistency.

**35 USC 102(b) Novelty**

The examiner cites Lapoint, Jr, et al, US 5,323,922 under 35 USC 102(b), as prior art barring allowance of claim 15. It is respectfully submitted that Lapoint does not anticipate applicant’s invention. Lapoint’s device differs in at least two very significant ways from applicant’s invention. Lapoint’s side walls (12, 14, 16, 18) are sewn together along the edges of each side wall. In describing Fig. 12, Lapoint states “adjoining zones 81, are sewn together along side edges 83, to form the bag-like configuration.” Col. 9, lines 36 – 38. Lapoint discloses the use of a collapsible bag that is loaded in a configuration where the sides are *already sewn together*. Applicant’s invention intentionally does *not* sew the side panels together. In this manner applicant’s device can be “loaded” while the side panels are not in the way; they are lying on the ground, not yet raised up. In Lapoint, the bag must be loaded with the side panels sewn together, which limits the ease with which the bag can be loaded.

In addition, the “ties” referred to in Lapoint (46, 54, 67, Fig. 7; Col. 6, lines 51 – 68) are used to secure a top 22 to the upper portion of the side flaps 34, using the grommets 36 and 44. These “ties” are not used to connect the side walls together after the loading of the bag (indeed,

as noted above, the side walls of Lapoint are sewn together prior to use of the bag). In applicant's invention, the side panels are raised and tied together using the ties only after the pallet is loaded with material. Accordingly, applicant's "ties" and Lapoint's "ties" are not at all the same thing. Lapoint's ties hold on the top of Lapoint's container. Applicant's ties are used to hold the side panels in place, but only after the pallet has been loaded. As noted on page 8 of applicant's specification, the four side panels are raised into position and tied to the adjacent side panels only after the pallet is loaded. Lapoint does not anticipate applicant's invention.

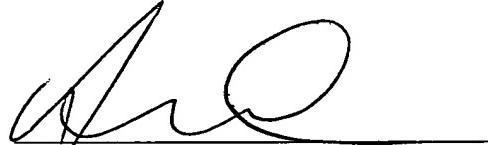
To clarify the location and purpose of applicant's "ties," your applicant has amended claim 15 and 19 to further state the location and purpose of the ties. The amendments make it clear that the ties are attached to each side flap, and are fastened to the ties of the adjacent side flaps after the pallet is loaded.

### **35 USC 103(a) Obviousness**

The examiner has rejected claims 16 – 21 and 23 – 26 under 35 USC 103(a) as being unpatentable over Lapoint Jr. et al. As noted above, Lapoint differs from your applicants invention in that it has side panels sewn together to form a structured bag, which must be loaded with the side panels in place. Additionally, Lapoint's ties differ from the applicant's ties both in location and function. Claims 15 and 19, the two independent claims, have been amended to note this distinction. It is respectfully submitted that claims 15 and 19 are now in condition for allowance. Accordingly, claims 16 – 18 (dependent upon claim 15) and claims 20 – 26 (dependent upon claim 19), add additional elements to the applicant's claimed invention, and should therefore be in condition for allowance as well.

**Conclusion:**

Your applicant has amended the claims in a manner that places the claims 15 – 26 in condition for allowance, and respectfully requests entry of the above amendments. Applicant's counsel would welcome a telephone conference if the examiner so desires.



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